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7

8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 79/09-44

13 **QUICK SMOG TEST ONLY**
14 **JORGE LUIS SOTO, Owner**
15 14525 Nordoff Street
Panorama City, California 91402
16 **Automotive Repair Dealer Registration**
No. ARD 250690
17 **Smog Check Test Only Station License**
No. TC 250690

A C C U S A T I O N

Smog Check

18 **JORGE LUIS SOTO**
19 1624 8th Street
San Fernando, California 91340
20 **Advanced Emission Specialist Technician**
License No. EA 152882

21 **STANLEY EMMANUEL GUEVARA**
22 8809 Etiwanda Ave., #23
Northridge, California 91325
23 **Advanced Emission Specialist Technician**
License No. EA 153826

24 Respondents.

25 Sherry Mehl ("Complainant") alleges:

26 **PARTIES**

27 1. Complainant brings this Accusation solely in her official capacity as the
28 Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

1 **Automotive Repair Dealer Registration**

2 2. On or about June 6, 2007, the Bureau issued Automotive Repair Dealer
3 Registration Number ARD 250690 ("registration") to Jorge Luis Soto ("Respondent"), doing
4 business as Quick Smog Test Only. The registration expired on May 31, 2008, and has not been
5 renewed.

6 **Smog Check Test Only Station License**

7 3. On or about June 14, 2007, the Bureau issued Smog Check Test Only
8 Station License Number TC 250690 ("station license") to Respondent. The station license
9 expired on May 31, 2008, and has not been renewed.

10 **Advanced Emission Specialist Technician License No. EA152882**

11 4. On or about September 18, 2006, the Bureau issued Advanced Emission
12 Specialist Technician License Number EA 152882 ("technician license") to Jorge Luis Soto
13 ("Respondent Soto"). The technician license will expire on April 30, 2010, unless renewed.

14 **Advanced Emission Specialist Technician License No. EA 153826**

15 5. On or about November 22, 2006, the Bureau issued Advanced Emission
16 Specialist Technician License Number EA 153826 ("technician license") to Stanley Emmanuel
17 Guevara ("Respondent Guevara"). The technician license will expire on June 30, 2010.

18 **STATUTORY PROVISIONS**

19 6. Business and Professions Code ("Code") section 9884.7 states, in
20 pertinent part:

21 (a) The director, where the automotive repair dealer cannot show there
22 was a bona fide error, may refuse to validate, or may invalidate temporarily or
23 permanently, the registration of an automotive repair dealer for any of the
24 following acts or omissions related to the conduct of the business of the
automotive repair dealer, which are done by the automotive repair dealer or any
automotive technician, employee, partner, officer, or member of the automotive
repair dealer.

25 (1) Making or authorizing in any manner or by any means whatever
26 any statement written or oral which is untrue or misleading, and which is known,
27 or which by the exercise of reasonable care should be known, to be untrue or
misleading.

28 (4) Any other conduct which constitutes fraud.

1 (b) Except as provided for in subdivision (c), if an automotive repair
2 dealer operates more than one place of business in this state, the director pursuant
3 to subdivision (a) shall only refuse to validate, or shall only invalidate temporarily
4 or permanently the registration of the specific place of business which has
violated any of the provisions of this chapter. This violation, or action by the
director, shall not affect in any manner the right of the automotive repair dealer to
operate his or her other places of business.

5 (c) Notwithstanding subdivision (b), the director may refuse to
6 validate, or may invalidate temporarily or permanently, the registration for all
7 places of business operated in this state by an automotive repair dealer upon a
finding that the automotive repair dealer has, or is, engaged in a course of
repeated and willful violations of this chapter, or regulations adopted pursuant to
it.

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9 7. Code section 9884.13 provides, in pertinent part, that the expiration of a
10 valid registration shall not deprive the director or chief of jurisdiction to proceed with a
11 disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a
12 registration temporarily or permanently.

13 8. Code section 477 provides, in pertinent part, that "Board" includes
14 "bureau," "commission," "committee," "department," "division," "examining committee,"
15 "program," and "agency." "License" includes certificate, registration or other means to engage
16 in a business or profession regulated by the Code.

17 9. Health and Safety Code section 44002 provides, in pertinent part, that the
18 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
19 the Motor Vehicle Inspection Program.

20 10. Health and Safety Code section 44072.2 states, in pertinent part:

21 The director may suspend, revoke, or take other disciplinary action against
22 a license as provided in this article if the licensee, or any partner, officer, or
director thereof, does any of the following:

23 (a) Violates any section of this chapter [the Motor Vehicle Inspection
24 Program (Health and Saf. Code, § 44000, et seq.)] and the regulations adopted
pursuant to it, which related to the licensed activities.

25 (c) Violates any of the regulations adopted by the director pursuant to
this chapter.

26 (d) Commits any act involving dishonesty, fraud, or deceit whereby
27 another is injured.

28 11. Health and Safety Code section 44072.6 provides, in pertinent part, that

1 the expiration or suspension of a license by operation of law, or by order or decision of the
2 Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall
3 not deprive the Director of jurisdiction to proceed with disciplinary action.

4 12. Health and Safety Code section 44072.8 states:

5 "When a license has been revoked or suspended following a hearing under this
6 article, any additional license issued under this chapter in the name of the licensee may be
7 likewise revoked or suspended by the director."

8 **COST RECOVERY**

9 13. Code section 125.3 provides, in pertinent part, that a Board may request
10 the administrative law judge to direct a licensee found to have committed a violation or
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
12 and enforcement of the case.

13 **SITE INSPECTION - OCTOBER 5, 2007**

14 14. On or about October 5, 2007, between 1300 hours and 1415 hours, the
15 Bureau performed a site inspection at Respondent's facility. The site inspection and information
16 obtained from the Bureau's Vehicle Information Database ("VID") revealed that Respondent
17 Guevara performed a smog inspection resulting in the issuance of an illegal electronic certificate
18 of compliance, certifying that he had tested and inspected the vehicle set forth in Table 1 below,
19 and that the vehicle was in compliance with applicable laws and regulations. In fact, Respondent
20 Guevara performed the smog inspection using the clean piping method¹ by using the tail pipe
21 emissions of a vehicle other than the vehicle being certified in order to issue the certificate. The
22 vehicle certified was not in the test bay at the time of the smog inspection.

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27 1. "Clean piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of
28 another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not
in compliance or are not present in the smog check area during the time of the certification.

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2 **TABLE 1**

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Date & Time	Vehicle Certified	Vehicle Actually Tested	Certificate No.	Technician
10/5/2007 1341 - 1356 hours	1991 Dodge Ram pickup License No. 7N18951	1990 Acura Integra	MU907617C	Guevara

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7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Misleading Statements)**

9 15. Respondent's registration is subject to discipline under Code section
10 9884.7(a)(1), in that on or about October 5, 2007, Respondent made statements which he knew
11 or which by exercise of reasonable care he should have known were untrue or misleading by
12 issuing an electronic certificate of compliance for the vehicle set forth in Table 1 above,
13 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact,
14 the vehicle had been clean piped.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Fraud)**

17 16. Respondent's registration is subject to discipline under Code section
18 9884.7(a)(4), in that on or about October 5, 2007, Respondent committed acts which constitute
19 fraud by issuing an electronic certificate of compliance for the vehicle set forth in Table 1 above,
20 without performing a bona fide inspection of the emission control devices and systems on the
21 vehicle, thereby depriving the People of the State of California of the protection afforded by the
22 Motor Vehicle Inspection Program.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Violation of the Motor Vehicle Inspection Program)**

25 17. Respondent's station license is subject to discipline under Health and
26 Safety Code section 44072.2(a), in that on or about October 5, 2007, regarding the electronic
27 certificate of compliance and the vehicle set forth in Table 1 above, Respondent violated sections
28 of that Code, as follows:

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2 a. **Section 44012, subdivision (f):** Respondent failed to perform emission
3 control tests on the vehicle in accordance with procedures prescribed by the department.

4 b. **Section 44015, subdivision (b):** Respondent issued an electronic
5 certificate of compliance for the vehicle without properly testing and inspecting the vehicle to
6 determine if it was in compliance with section 44012 of that Code.

7 c. **Section 44059:** Respondent willfully made false entries for the
8 electronic certificate of compliance by certifying that the vehicle had been inspected as required
9 when, in fact, it had not.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

12 18. Respondent's station license is subject to discipline under Health and
13 Safety Code section 44072.2(c), in that on or about October 5, 2007, regarding the electronic
14 certificate of compliance and the vehicle set forth in Table 1 above, Respondent violated sections
15 of the California Code of Regulations, title 16, as follows:

16 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
17 issued an electronic certificate of compliance for the vehicle without performing a bona fide
18 inspection of the emission control device and system on the vehicle as required by Health and
19 Safety Code section 44012.

20 b. **Section 3340.35, subdivision (c):** Respondent issued an electronic
21 certificate of compliance for the vehicle even though the vehicle had not been inspected in
22 accordance with section 3340.42 of that Code.

23 c. **Section 3340.42:** Respondent failed to conduct the required smog test and
24 inspection on the vehicle in accordance with the Bureau's specifications.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Dishonesty, Fraud or Deceit)**

27 19. Respondent's station license is subject to discipline under Health and
28 Safety Code section 44072.2(d), in that on or about October 5, 2007, Respondent committed acts

1 involving dishonesty, fraud or deceit whereby another was injured by issuing an electronic
2 certificate of compliance for the vehicle set forth in Table 1 above, without performing a bona
3 fide inspection of the emission control devices and systems on the vehicle, thereby depriving the
4 People of the State of California of the protection afforded by the Motor Vehicle Inspection
5 Program.

6 **SIXTH CAUSE FOR DISCIPLINE**

7 **(Violations of the Motor Vehicle Inspection Program)**

8 20. Respondent Guevara's technician license is subject to discipline under
9 Health and Safety Code section 44072.2(a), in that on or about October 5, 2007, regarding the
10 electronic certificate of compliance and the vehicle set forth in Table 1 above, he violated
11 sections of that Code, as follows:

12 a. **Section 44012, subdivision (f):** Respondent Guevara failed to perform
13 emission control tests on the vehicle set forth above in Table 1 in accordance with procedures
14 prescribed by the department.

15 b. **Section 44032:** Respondent Guevara failed to perform tests of the
16 emission control device and system on the vehicle in accordance with section 44012 of that
17 Code, in that the vehicle had been clean piped.

18 c. **Section 44059:** Respondent Guevara willfully made false entries for the
19 electronic certificate of compliance by certifying that the vehicle had been inspected as required
20 when, in fact, it had not.

21 **SEVENTH CAUSE FOR DISCIPLINE**

22 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

23 21. Respondent Guevara's technician license is subject to discipline under
24 Health and Safety Code section 44072.2(c), in that on or about October 5, 2007, regarding the
25 electronic certificate of compliance and the vehicle set forth in Table 1 above, he violated
26 sections of the California Code of Regulations, title 16, as follows:

27 a. **Section 3340.24, subdivision (c):** Respondent Guevara falsely or
28 fraudulently issued an electronic certificate of compliance for the vehicle without performing a

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2 bona fide inspection of the emission control device and system on the vehicle as required by
3 Health and Safety Code section 44012.

4 b. **Section 3340.30, subdivision (a):** Respondent Guevara failed to inspect
5 and test the vehicle in accordance with Health and Safety Code section 44012.

6 c. **Section 3340.41, subdivision (c):** Respondent Guevara entered false
7 information into the EIS for the electronic certificate of compliance by entering vehicle
8 identification information or emission control information for a vehicle other than the vehicle
9 being tested.

10 d. **Section 3340.42:** Respondent Guevara failed to conduct the required
11 smog tests and inspections on the vehicle in accordance with the Bureau's specifications.

12 **EIGHTH CAUSE FOR DISCIPLINE**

13 **(Dishonesty, Fraud or Deceit)**

14 22. Respondent Guevara's technician license is subject to discipline under
15 Health and Safety Code section 44072.2(d), in that on or about October 5, 2007, he committed
16 acts involving dishonesty, fraud or deceit whereby another was injured by issuing the electronic
17 certificate of compliance for the vehicle set forth in Table 1 above, without performing a bona
18 fide inspection of the emission control devices and systems on the vehicle, thereby depriving the
19 People of the State of California of the protection afforded by the Motor Vehicle Inspection
20 Program.

21 **VIDEO SURVEILLANCE OPERATION**

22 **NOVEMBER 6, 2007**

23 23. On or about November 6, 2007, between 0500 hours and 1900 hours, the
24 Bureau performed a videotaped surveillance at Respondent's facility. The surveillance operation
25 and information obtained from the Bureau's VID revealed that Respondent Guevara performed
26 eight (8) smog inspections, resulting in the issuance of six (6) illegal electronic certificates of
27 compliance, certifying that he had tested and inspected the vehicles set forth in Table 2 below,
28 and that those vehicles were in compliance with applicable laws and regulations. In fact,

Respondent Guevara performed those smog inspections using the clean piping method by using the tail pipe emissions of vehicles other than the vehicles being certified in order to issue those certificates. None of the vehicles certified were in the test bay at the time of the smog inspections.

TABLE 2

Date & Time	Vehicle Certified	Vehicle Actually Tested	Certificate No.	Technician
11/6/2007 1224 - 1238 hours	1995 Toyota Tercel License No. 4JRU233	Mercedes Benz S Class License No. 5RIZ861	MW260239C	Guevara
11/6/2007 1617 - 1634 hours	1990 Lexus LS400 License No. 4STM564	Toyota 4-Runner License No. 3BFN111 (tailpipe sample) Honda Civic License No. 4ZZD553 (RPM signal)	MW260240C	Guevara
11/6/2007 1638 - 1650 hours	1991 Saturn SC License No. 5RCX347	Honda Civic License No. 3VJZ116	MW260241C	Guevara
11/6/2007 1653 - 1704 hours	1998 Honda Accord License No. 5HSE461	Lincoln Navigator License No. 4PCE793	MW260242C	Guevara
11/6/2007 1710 - 1721 hours	2001 Dodge Durango License No. 5KIB994	Lincoln Navigator License No. 4PCE793	MW260243C	Guevara
11/6/2007 1726 - 1741 hours	1993 Chevrolet Lumina APV License No. 5WNS245	Honda Civic License No. 3VJZ116 (tailpipe sample) Honda Civic License No. 4ZZD553 (RPM signal)	MW260244C	Guevara

NINTH CAUSE FOR DISCIPLINE

(Misleading Statements)

24. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in that on or about November 6, 2007, Respondent made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading by issuing electronic certificates of compliance for the vehicles set forth in Table 2 above,

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2 certifying that the vehicles were in compliance with applicable laws and regulations when, in
3 fact, the vehicles had been clean piped.

4 **TENTH CAUSE FOR DISCIPLINE**

5 **(Fraud)**

6 25. Respondent's registration is subject to discipline under Code section
7 9884.7(a)(4), in that on or about November 6, 2007, Respondent committed acts which constitute
8 fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 2 above,
9 without performing bona fide inspections of the emission control devices and systems on those
10 vehicles, thereby depriving the People of the State of California of the protection afforded by the
11 Motor Vehicle Inspection Program.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

13 **(Violation of the Motor Vehicle Inspection Program)**

14 26. Respondent's station license is subject to discipline under Health and
15 Safety Code section 44072.2(a), in that on or about November 6, 2007, regarding the electronic
16 certificates of compliance and the vehicles set forth in Table 2 above, Respondent violated
17 sections of that Code, as follows:

18 a. **Section 44012, subdivision (f):** Respondent failed to perform emission
19 control tests on the vehicles in accordance with procedures prescribed by the department.

20 b. **Section 44015, subdivision (b):** Respondent issued electronic certificates
21 of compliance for those vehicles without properly testing and inspecting the vehicles to
22 determine if they were in compliance with section 44012 of that Code.

23 c. **Section 44059:** Respondent willfully made false entries for the electronic
24 certificates of compliance by certifying that the vehicles had been inspected as required when, in
25 fact, they had not.

26 **TWELFTH CAUSE FOR DISCIPLINE**

27 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

28 27. Respondent's station license is subject to discipline under Health and

1 Safety Code section 44072.2(c), in that on or about November 6, 2007, regarding the electronic
2 certificates of compliance and the vehicles set forth in Table 2 above, Respondent violated
3 sections of the California Code of Regulations, title 16, as follows:

4 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
5 issued electronic certificates of compliance for those vehicles without performing bona fide
6 inspections of the emission control devices and systems on the vehicles as required by Health
7 and Safety Code section 44012.

8 b. **Section 3340.35, subdivision (c):** Respondent issued electronic
9 certificates of compliance for those vehicles even though the vehicles had not been inspected in
10 accordance with section 3340.42 of that Code.

11 c. **Section 3340.42:** Respondent failed to conduct the required smog tests
12 and inspections on the vehicles in accordance with the Bureau's specifications.

13 **THIRTEENTH CAUSE FOR DISCIPLINE**

14 **(Dishonesty, Fraud or Deceit)**

15 28. Respondent's station license is subject to discipline under Health and
16 Safety Code section 44072.2(d), in that on or about November 6, 2007, Respondent committed
17 acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic
18 certificates of compliance for the vehicles set forth in Table 2 above, without performing bona
19 fide inspections of the emission control devices and systems on the vehicles, thereby depriving
20 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
21 Program.

22 **FOURTEENTH CAUSE FOR DISCIPLINE**

23 **(Violations of the Motor Vehicle Inspection Program)**

24 29. Respondent Guevara's technician license is subject to discipline under
25 Health and Safety Code section 44072.2(a), in that on or about November 6, 2007, regarding the
26 electronic certificates of compliance and the vehicles set forth in Table 2 above, he violated
27 sections of that Code, as follows:

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2 a. **Section 44012, subdivision (f):** Respondent Guevara failed to perform
3 emission control tests on the vehicles in accordance with procedures prescribed by the
4 department.

5 b. **Section 44032:** Respondent Guevara failed to perform tests of the
6 emission control devices and systems on those vehicles in accordance with section 44012 of that
7 Code, in that the vehicles had been clean piped.

8 c. **Section 44059:** Respondent Guevara willfully made false entries for the
9 electronic certificates of compliance by certifying that the vehicles had been inspected as
10 required when, in fact, they had not.

11 **FIFTEENTH CAUSE FOR DISCIPLINE**

12 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

13 30. Respondent Guevara's technician license is subject to discipline under
14 Health and Safety Code section 44072.2(c), in that on or about November 6, 2007, regarding the
15 electronic certificates of compliance and the vehicles set forth in Table 2 above, he violated
16 sections of the California Code of Regulations, title 16, as follows:

17 a. **Section 3340.24, subdivision (c):** Respondent Guevara falsely or
18 fraudulently issued electronic certificates of compliance for the vehicles without performing a
19 bona fide inspection of the emission control device and system on the vehicles as required by
20 Health and Safety Code section 44012.

21 b. **Section 3340.30, subdivision (a):** Respondent Guevara failed to inspect
22 and test the vehicles in accordance with Health and Safety Code section 44012.

23 c. **Section 3340.41, subdivision (c):** Respondent Guevara entered false
24 information into the EIS for the electronic certificates of compliance by entering vehicle
25 identification information or emission control information for vehicles other than the vehicles
26 being tested.

27 d. **Section 3340.42:** Respondent Guevara failed to conduct the required
28 smog tests and inspections on the vehicles in accordance with the Bureau's specifications.

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SIXTEENTH CAUSE FOR DISCIPLINE

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(Dishonesty, Fraud or Deceit)

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31. Respondent Guevara's technician license is subject to discipline under Health and Safety Code section 44072.2(d), in that on or about November 6, 2007, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for the vehicles set forth in Table 2 above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

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VIDEO SURVEILLANCE OPERATION

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NOVEMBER 7, 2007

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32. On or about November 7, 2007, between 0500 hours and 1900 hours, the Bureau performed a videotaped surveillance at Respondent's facility. The surveillance operation and information obtained from the Bureau's VID revealed that Respondent Guevara performed six (6) smog inspections, resulting in the issuance of four (4) illegal electronic certificates of compliance, certifying that he had tested and inspected the vehicles set forth in Table 3 below, and that those vehicles were in compliance with applicable laws and regulations. In fact, Respondent Guevara performed those smog inspections using the clean piping method by using the tail pipe emissions of vehicles other than the vehicles being certified in order to issue those certificates. None of the vehicles certified were in the test bay at the time of the smog inspections.

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TABLE 3

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Date & Time	Vehicle Certified	Vehicle Actually Tested	Certificate No.	Technician
11/7/2007 1056 - 1109 hours	1994 Chevrolet S10 pickup License No. 6D68543	Ford F150 pickup License No. 8J26055	MW260245C	Guevara

11/7/2007 1118 - 1133 hours	1991 Chevrolet Astro License No. 4YBU949	Chevrolet pickup License No. 8D63278	MW260246C	Guevara
11/7/2007 1502 - 1525 hours	1993 Dodge Caravan License No. 3CFS731	Chevrolet pickup License No. 8D63278 (tailpipe sample) Honda Civic License No. 4ZZD553 (RPM signal)	MW260247C	Guevara
11/7/2007 1534 - 1548 hours	1991 Chevrolet C1500 Tahoe no license plate	Lincoln Navigator License No. 4PCE793	MW260248C	Guevara

SEVENTEENTH CAUSE FOR DISCIPLINE

(Misleading Statements)

33. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in that on or about November 7, 2007, Respondent made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading by issuing electronic certificates of compliance for the vehicles set forth in Table 3 above, certifying that the vehicles were in compliance with applicable laws and regulations when, in fact, the vehicles had been clean piped.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Fraud)

34. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in that on or about November 7, 2007, Respondent committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 3 above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

NINETEENTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

35. Respondent's station license is subject to discipline under Health and Safety Code section 44072.2(a), in that on or about November 7, 2007, regarding the electronic

1 certificates of compliance and the vehicles set forth in Table 3 above, Respondent violated
2 sections of that Code, as follows:

3 a. **Section 44012, subdivision (f):** Respondent failed to perform emission
4 control tests on the vehicles in accordance with procedures prescribed by the department.

5 b. **Section 44015, subdivision (b):** Respondent issued electronic certificates
6 of compliance for those vehicles without properly testing and inspecting the vehicles to
7 determine if they were in compliance with section 44012 of that Code.

8 c. **Section 44059:** Respondent willfully made false entries for the electronic
9 certificates of compliance by certifying that the vehicles had been inspected as required when, in
10 fact, they had not.

11 **TWENTIETH CAUSE FOR DISCIPLINE**

12 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

13 36. Respondent's station license is subject to discipline under Health and
14 Safety Code section 44072.2(c), in that on or about November 7, 2007, regarding the electronic
15 certificates of compliance and the vehicles set forth in Table 3 above, Respondent violated
16 sections of the California Code of Regulations, title 16, as follows:

17 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
18 issued electronic certificates of compliance for those vehicles without performing bona fide
19 inspections of the emission control devices and systems on the vehicles as required by Health
20 and Safety Code section 44012.

21 b. **Section 3340.35, subdivision (c):** Respondent issued electronic
22 certificates of compliance for those vehicles even though the vehicles had not been inspected in
23 accordance with section 3340.42 of that Code.

24 c. **Section 3340.42:** Respondent failed to conduct the required smog tests
25 and inspections on the vehicles in accordance with the Bureau's specifications.

26 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

27 **(Dishonesty, Fraud or Deceit)**

28 37. Respondent's station license is subject to discipline under Health and

1 Safety Code section 44072.2(d), in that on or about November 7, 2007, Respondent committed
2 acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic
3 certificates of compliance for the vehicles set forth in Table 3 above, without performing bona
4 fide inspections of the emission control devices and systems on the vehicles, thereby depriving
5 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
6 Program.

7 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

8 **(Violations of the Motor Vehicle Inspection Program)**

9 38. Respondent Guevara's technician license is subject to discipline under
10 Health and Safety Code section 44072.2(a), in that on or about November 7, 2007, regarding the
11 electronic certificates of compliance and the vehicles set forth in Table 3 above, he violated
12 sections of that Code, as follows:

13 a. **Section 44012, subdivision (f):** Respondent Guevara failed to perform
14 emission control tests on the vehicles in accordance with procedures prescribed by the
15 department.

16 b. **Section 44032:** Respondent Guevara failed to perform tests of the
17 emission control devices and systems on those vehicles in accordance with section 44012 of that
18 Code, in that the vehicles had been clean piped.

19 c. **Section 44059:** Respondent Guevara willfully made false entries for the
20 electronic certificates of compliance by certifying that the vehicles had been inspected as
21 required when, in fact, they had not.

22 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

23 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

24 39. Respondent Guevara's technician license is subject to discipline under
25 Health and Safety Code section 44072.2(c), in that on or about November 7, 2007, regarding the
26 electronic certificates of compliance and the vehicles set forth in Table 3 above, he violated
27 sections of the California Code of Regulations, title 16, as follows:

28 a. **Section 3340.24, subdivision (c):** Respondent Guevara falsely or

1 fraudulently issued electronic certificates of compliance for the vehicles without performing a
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3 bona fide inspection of the emission control device and system on the vehicles as required by
4 Health and Safety Code section 44012.

5 b. **Section 3340.30, subdivision (a):** Respondent Guevara failed to inspect
6 and test the vehicles in accordance with Health and Safety Code section 44012.

7 c. **Section 3340.41, subdivision (c):** Respondent Guevara entered false
8 information into the EIS for the electronic certificates of compliance by entering vehicle
9 identification information or emission control information for vehicles other than the vehicles
10 being tested.

11 d. **Section 3340.42:** Respondent Guevara failed to conduct the required
12 smog tests and inspections on the vehicles in accordance with the Bureau's specifications.

13 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

14 **(Dishonesty, Fraud or Deceit)**

15 40. Respondent Guevara's technician license is subject to discipline under
16 Health and Safety Code section 44072.2(d), in that on or about November 7, 2007, he committed
17 acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic
18 certificates of compliance for the vehicles set forth in Table 3 above, without performing bona
19 fide inspections of the emission control devices and systems on those vehicles, thereby depriving
20 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
21 Program.

22 **OTHER MATTERS**

23 41. Under Code section 9884.7, subdivision (c), the director may invalidate or
24 refuse to validate, temporarily or permanently, the registrations for all places of business
25 operated in this state by Jorge Luis Soto, doing business as Quick Smog Test Only, upon a
26 finding that he has, or is, engaged in a course of repeated and willful violations of the laws and
27 regulations pertaining to an automotive repair dealer.

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5. Revoking or suspending Advanced Emission Specialist Technician
Number EA 152882, issued to Jorge Luis Soto;

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6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Jorge Luis Soto;

7. Revoking or suspending Advanced Emission Specialist Technician
Number EA 153826, issued to Stanley Emmanuel Guevara;

8. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Stanley Emmanuel Guevara;

9. Ordering Jorge Luis Soto and Stanley Emmanuel Guevara to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

10. Taking such other and further action as deemed necessary and proper.

DATED: 11-21-08

SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

LA2008900124
Accusation (kdg)11/13/08